

Vehicle Impoundment Registry

**Annual Report
2007-2008**







**ATTORNEY GENERAL
MINISTER OF JUSTICE**

Room 104
Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

The Honourable John Harvard, P.C., O.M.
Lieutenant-Governor of Manitoba

MAY IT PLEASE YOUR HONOUR:

It is my privilege to present, for the information of Your Honour, the Annual Report of the Vehicle Impoundment Registry for the year ending March 31, 2008.

Respectfully submitted,



Honourable Dave Chomiak
Minister of Justice
Attorney General







Justice

Deputy Minister of Justice and Deputy Attorney General

Room 110 Legislative Building, Winnipeg, Manitoba, Canada R3C 0V8

Honourable Dave Chomiak
Minister of Justice
Attorney General of Manitoba
Room 104 Legislative Building
Winnipeg, Manitoba R3C 0V8

Dear Sir:

I submit for your approval the Annual Report of the Vehicle Impoundment Registry for the year ending March 31, 2008.

Respectfully submitted,

Jeffrey A. Schnoor, Q.C.
Deputy Minister of Justice and
Deputy Attorney General



Table of Contents

<u>Title</u>	<u>Page</u>
Introduction	1
Vehicle Impoundment Registry Results	2
Suspended, Prohibited and Alcohol-Related Seizures	2
Age/Charged Analysis	3
Second or subsequent seizure within five years	3
Revocation Hearings	4
Seized Vehicle Status	4
Prostitution-Related Seizures	5
Financial Report	5

Introduction

Drivers who choose to drive in Manitoba while suspended, prohibited or impaired are a significant risk to themselves as well as to others using Manitoba's roadways. The Government of Manitoba is committed to taking firm measures to combat these offences and has implemented meaningful sanctions to help keep our roads and families safe.

Under *The Highway Traffic Act* there are immediate and long-term consequences for drivers who drive while suspended, prohibited or impaired. Sanctions range from driver licence suspension (24-hour to lifetime) to criminal charges (monetary fine to a mandatory minimum jail sentence). Drivers who are convicted of certain offences are also subject to mandatory licence conditions.

In addition to measures against a driver's licence, the Government of Manitoba has implemented sanctions on vehicles used to commit driving offences. *The Highway Traffic Act* provides for the seizure and impoundment of a vehicle if the driver is driving while suspended, prohibited or impaired, fails or refuses a breath/blood demand, refuses to comply with a field sobriety test or is committing a prostitution related offence. For drivers who commit a serious vehicle offence or are determined by Vehicle Impoundment Registry to be a repeat offender, the Government of Manitoba has enacted legislation that provides for the forfeiture of the vehicle used to commit the offence.

Section 242.1. Seizure and Impoundment of Vehicles for Certain Offences allows for a vehicle to be impounded for a minimum of 30 days if the driver:

- (a) is driving while disqualified or prohibited,
- (b) is driving while intoxicated, blood alcohol content ("BAC") over .08.

and allows for a vehicle to be impounded for a minimum of 60 days if the driver:

- (b) is driving while intoxicated, BAC over .16,
- (c) fails or refuses a breath/blood demand,
- (d) refuses to comply with a demand for a field sobriety test or fails to follow instructions regarding the test.

The impoundment period for the current offence is extended based on the prior 5 year history of impoundments of the owner of the vehicle. A vehicle is released if it is determined it was wrongfully seized or if the vehicle was stolen/taken without consent. An owner, who is not the driver charged with an impaired offence, may apply to a Justice for the revocation of the impoundment of the vehicle.

Section 242.2(3). Seizure of Vehicles in Prostitution Related Offences, allows a peace officer to seize and impound a vehicle if the driver, while operating a vehicle, commits one of the following offences:

- (a) transporting person to bawdy house;
- (b) procuring;
- (c) offence in relation to prostitution.

For a prostitution related offence, there is no minimum impoundment period. However, the vehicle may be authorized for release if (a) the vehicle is stolen, or (b) the driver has been accepted into a program of alternative measures (John School), or (c) the owner has provided a cash security equal to the value of the vehicle, or (d) the owner, who is not the driver, applies to a Justice for the release of the vehicle. If the driver is convicted of the prostitution related offence, the vehicle or cash security will be forfeited to the Province of Manitoba.

Section 242.3(2), Forfeiture of Vehicles for Certain Offences, allows for a vehicle to be liable for forfeiture for any of the following single offences:

- (a) criminal negligence causing death;
- (b) criminal negligence causing bodily harm;
- (c) manslaughter;
- (d) dangerous operation causing bodily harm;
- (e) dangerous operation causing death;
- (f) flight from police causing bodily harm;
- (g) flight from police causing death;
- (h) impaired driving causing bodily harm;
- (i) impaired driving causing death, and

Section 242.3(3) allows for a vehicle to be liable for forfeiture for a third or subsequent offence if within the previous 5 years the alleged offender has committed 2 or more of the following offences or the offences above in Section 242.3(2):

- (a) dangerous operation;
- (b) flight from police;
- (c) fail to stop at accident;
- (d) drive impaired;
- (e) BAC over .08;
- (f) refuse to supply sample;
- (g) drive disqualified.

The vehicle may be authorized for release from forfeiture if (a) the owner, who is not the driver, applies to a Justice for the release of the vehicle, or (b) the owner, who is the driver, provides a cash security equal to the value of the vehicle. Unless the vehicle has been released from liability to forfeiture the vehicle or the money deposited is forfeited to the Province of Manitoba upon conviction of the driver.

The Vehicle Impoundment Registry is responsible for the administration of vehicle impoundments and forfeitures, including determining if the impoundment is lawful, setting the impoundment period, issuing Notices of Extension or Release, authorizing the disposition of a vehicle, answering public inquiries and ensuring compliance with the legislation by police agencies and garage keepers.

Vehicle Impoundment Registry Results

Suspended, Prohibited and Alcohol-Related Seizures

The following tables show the monthly seizures by offence and by driver age/offence. Note: a driver may be charged with more than one offence when a vehicle is seized. In Winnipeg, 1,066 (32%) seizures occurred and 2,269 (68%) seizures occurred in rural areas.

Month/Year	Total Seizures	Suspended	Prohibited	Over .08	Over .16	Refusal	Refusal Field Sobriety Test
April 2007	297	81	21	86	89	36	0
May 2007	316	106	16	103	80	28	0
June 2007	341	100	18	98	93	45	0
July 2007	327	88	27	95	98	35	0
August 2007	300	98	15	104	69	32	0
September 2007	311	82	17	82	81	66	0
October 2007	258	70	15	72	82	29	1
November 2007	240	71	22	70	52	37	1
December 2007	249	77	11	76	61	34	0
January 2008	237	64	15	64	65	39	0
February 2008	206	74	9	62	48	20	0
March 2008	253	95	24	62	64	24	0
Total	3,335	1,006	210	974	882	425	2
Percent of Total	100%	30%	6%	29%	26%	13%	.05%

Driver Age/Offence Analysis

Driver Age	Total Charged #	Total Charged %	Suspended	Prohibited	Over .08	Over .16	Refusal	Refusal Field Sobriety Test
20 & under	514	15.41	191	18	198	100	22	0
21 to 25	621	18.62	222	30	184	155	53	0
26 to 30	488	14.63	181	29	142	112	57	0
31 to 35	408	12.23	120	33	114	99	59	0
36 to 40	378	11.33	85	33	100	119	69	0
41 to 45	307	9.21	79	26	74	87	64	0
46 to 50	271	8.13	67	22	68	85	42	0
51 to 55	145	4.35	22	10	36	52	33	0
56 to 60	97	2.91	14	5	29	37	13	2
61 to 65	44	1.32	6	4	14	17	4	0
66 to 70	28	0.84	6	0	4	11	7	0
71 to 75	18	0.54	6	0	5	5	2	0
76 to 80	9	0.27	3	0	4	2	0	0
81 plus	7	0.21	4	0	2	1	0	0
Total	3,335	100.00	1,006	210	974	882	425	2

In the Vehicle Impoundment Registry:

drivers 16 to 25 years of age represented 34% of drivers;
 drivers 26 to 35 years of age represented 27% of drivers;
 drivers 36 to 55 years of age represented 33% of drivers;
 drivers older than 56 of age represented less than 10% of drivers.

Second or subsequent seizure within five years

Owners who are considered repeat offenders by the Vehicle Impoundment Registry will have the vehicle's impoundment period extended according to guidelines established by sections 242.1(7.1.1) and (7.1.2) of *The Highway Traffic Act*. For example, a vehicle seized for drive suspended will be impounded for 30 days if the owner has no prior seizures within 5 years of the current offence. However, if the owner had a previous seizure within 5 years which was not revoked, the period of impoundment is extended to 90 days.

Month	Extensions Issued	Extended Impoundments	
		Not revoked	Revoked
April 2007	41	37	4
May 2007	42	36	6
June 2007	46	40	6
July 2007	53	48	5
August 2007	47	43	4
September 2007	40	34	6
October 2007	38	33	5
November 2007	36	31	5
December 2007	40	34	6
January 2008	36	31	5
February 2008	25	23	2
March 2008	45	42	3
TOTAL	489	432	57

Revocation Hearings

An owner may apply to a Justice to conduct a hearing for the revocation of the impoundment. The circumstances in which the owner may apply for revocation are set out in legislation and include: the driver was in possession of the vehicle without the knowledge or consent of the owner, the owner was not aware the driver was disqualified or could not reasonably have been expected to know that the driver would operate or have care or control of the vehicle while impaired. An owner, who was the driver, may apply to a Justice to conduct a hearing when the vehicle was seized for drive suspended or prohibited, but may not apply for a hearing for a vehicle seized for drive impaired.

Region	Total Vehicles Seized		Applications to Revoke (% - total seizures)		Impoundments Revoked (% - total applications)		Impoundments Continued (% - total applications)	
Winnipeg	1,066 32%		426 40%		336 79%		90 21%	
Regional	2,269 68%		437 19%		342 78%		95 22%	
Total	3,335 100%		863 26%		678 79%		185 21%	

Seized Vehicle Status

Once a vehicle is seized by a peace officer, it is deposited with one of the 141 registered garage keepers. The vehicle may be released if it is determined the vehicle was wrongfully seized or if the owner reported the vehicle stolen/taken without consent. Once the vehicle has been released or the impoundment revoked by a Justice or the impoundment period has expired, the vehicle may be claimed by the owner. Vehicles not claimed by the owner may be transferred to the garage keeper or auctioned by the garage keeper to recover towing/storage fees, as permitted under *The Garage Keepers Act*.

Month/Year	Total Seizures	Vehicles Released	Vehicles Claimed	Vehicles Transferred	Vehicles Auctioned	Vehicles Unclaimed
April 2007	297	14	234	10	21	18
May 2007	316	18	251	17	16	14
June 2007	341	13	255	21	20	32
July 2007	327	13	263	18	16	17
August 2007	300	13	222	21	16	28
September 2007	311	6	261	13	10	21
October 2007	258	11	191	11	6	39
November 2007	240	8	187	8	5	32
December 2007	249	4	190	2	3	50
January 2008	237	10	165	3	1	58
February 2008	206	3	142	1	0	60
March 2008	253	2	120	0	1	130
Total	3,335	115	2,481	125	115	499
Percent of Total	100%	3%	74%	4%	3%	15%

Prostitution Related Seizures

Sixty-three vehicles were impounded for a prostitution related offence in 2007/2008.

46 vehicles were released to the owner as the driver was accepted into an alternative measures program;

6 owners, who were not the driver, were successful in having the impoundment revoked by a Justice;

8 vehicles were released for other reasons including:

- vehicles released after the driver/owner was not convicted of the prostitution related offence;
- vehicle released after the driver/owner received a conditional discharge;
- owner signed the vehicle over to the garage keeper in lieu of payment of towing/storage costs;
- vehicles released as the garage keeper's lien amounted to more than the value of the vehicle or the value of the owner's interest in the vehicle (low value release);

3 vehicles released as the owner provided a cash security equal to the value of the vehicle.

The release of a vehicle is subject to payment of the towing and storage costs by the owner; the garage keeper or secured creditor may take possession of the vehicle for non-payment.

Two security deposits and 1 vehicle from the 2007/2008 fiscal year and 1 security deposit from the 2006/2007 fiscal year remain liable to forfeiture.

The majority of vehicles seized for a prostitution related offence are released as a result of the driver being eligible for the alternative measures program (John School). Since the introduction of this legislation, 2 vehicles and 4 security deposits have been forfeited to the Province of Manitoba as a result of convictions being entered.

Fiscal Year	Total Seized	Vehicles Released			Forfeited to MB	
		Alternative Measures	By Order of a Justice	Other	Vehicle	Security Deposit
2007/2008	63	46	6	8	0	0
2006/2007	32	25	4	2	0	0
2005/2006	46	35	5	5	0	1
2004/2005	22	16	2	4	0	0
2003/2004	61	44	10	7	0	0
2002/2003	42	30	5	6	0	1
2001/2002	74	60	7	5	1	1
2000/2001	87	77	8	1	0	1
1999/2000	83	75	6	1	1	0
1998/1999	3	3	0	0	0	0

Financial Report

		April 1, 2007 to March 31, 2008
Revenue		
Suspension/Alcohol Related Offences		
Provincial Fees Collected:		\$308,775.00
Total Revenue		\$308,775.00
Claims/Refunds:		
Provincial Fee Refunded:		\$0.00
Claims Settled for Direct Costs		\$0.00
Total Costs		(\$0.00)
NET REVENUE		\$308,775.00
Prostitution Related Offences		
Provincial Fees Collected:		\$6,670.00
Total Revenue		\$6,670.00
Claims/Refunds:		
Provincial Fee Refunded:		\$0.00
Claims Settled for Direct Costs:		\$1,409.70
Total Costs		(\$1,409.70)
NET REVENUE		\$5,260.30
Total Net Revenue		\$314,035.30

